

United States Courts
Southern District of Texas
FILED

Michael N. Milby, Clerk of Court

ssssssssss

6. Defendant, Elizabeth Whitley, was served on November 8, 2004 with service through the Texas Secretary of State. A copy of the citation and petition were forwarded by the Texas Secretary of State to Defendant on November 12, 2004 and was signed for by Defendant's agent on November 17, 2004.

7. Notice of removal is filed before the expiration of thirty days from the date of service. Thus, notice of removal is timely filed. *See Murphy Brothers, Inc. v. Michette Pipe Stringing, Inc.*, 526 U.S. 344 (1999).

The Diversity of Citizenship Requirement is Satisfied

8. Removal of this case from state to federal court is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a); *Darden v. Ford Consumer Fin. Co.*, 200 F.3d 753, 755 (11th Cir. 2000); *Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (10th Cir. 1995). Plaintiff is a citizen of the State of Texas. Defendant, Mid-Atlantic Solutions, Inc., is incorporated in (and has its principal place of business in) Virginia. Elizabeth Whitley is a citizen of the State of Virginia.

The Amount in Controversy Requirement is Satisfied

9. It is Defendants' good faith belief that the amount in controversy exceeds the sum of \$75,000.00 excluding interest, costs and attorney fees. Plaintiff has filed his lawsuit in a Texas state district court asking damages within the jurisdictional limits of the court. Moreover, Plaintiff also asserts that due to the Defendants' alleged "malicious and reckless" conduct, he is entitled to an award of punitive damages. Consequently, the allegations of the Plaintiff's Petition satisfy the amount in controversy requirement of 18 U.S.C. §1332. *See, e.g., St. Paul Reinsurance Co. Ltd. v. Greenburg*, 134 F.3d 1250, 1253 n.13 (5th Cir. 1998) ("The test is whether it is more likely than not that the amount of the claim will exceed [\$75,000]").

Procedural Compliance

10. All pleadings, process, orders and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a).

11. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place where the removed action has been pending.

12. Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the action has been pending contemporaneously with this filing.

14. Notification will also be made to Plaintiff, C. Scott Evans, through his counsel of record.

14. Pursuant to the local rules for the Southern District of Texas, this notice of removal is accompanied by an index of matters being filed including:

- Exhibit #1: All executed process;
- Exhibit #2: All Pleadings asserting causes of action;
- Exhibit #3; The docket sheet;
- Exhibit #4: Listing of all counsel of record, including addresses, telephone numbers and parties represented;
- Exhibit #5: Notification to State District Court regarding Notice of Removal; and
- Exhibit #6: Written Notification to Plaintiff of filing of Notice of Removal.

JURY DEMAND

15. Plaintiff did not demand a jury in the state court action.

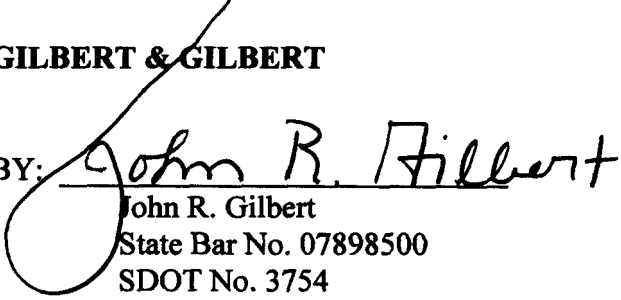
CONCLUSION

16. There is complete diversity of citizenship between the parties to this lawsuit and the amount in controversy is in excess of \$75,000.00. Therefore this action should be removed from state court.

Respectfully submitted,

GILBERT & GILBERT

BY:


John R. Gilbert
State Bar No. 07898500
SDOT No. 3754
222 North Velasco
P. O. Box 1819

Angleton, TX 77516-1819

(979) 849-5741

(979) 849-7729

ATTORNEY-IN-CHARGE FOR DEFENDANTS,
MID-ATLANTIC SOLUTIONS, INC. and ELIZABETH
WHITLEY

OF COUNSEL:

GILBERT & GILBERT

Lawrence P. Hampton

State Bar No. 08875500

SDOT No. 8123

222 North Velasco

P. O. Box 1819

Angleton, Texas 77516-1819

(979) 849-5741

(979) 849-7729 Fax

OGDEN, GIBSON, WHITE, BROOCKS,
& LONGORIA, LLP

William W. Ogden

State Bar No. 15228500

SDOT No. 2072

2100 Pennzoil South Tower

711 Louisiana

Houston, Texas 77002

(713) 844-3000

(713) 844-3030 Fax

CERTIFICATE OF SERVICE

I hereby certify that in accordance with the Federal Rules of Civil Procedure, a true copy of
DEFENDANTS' NOTICE OF REMOVAL has been served on the below listed counsel of record
on this the 8 day of December, 2004, to:

Christopher W. Byrd

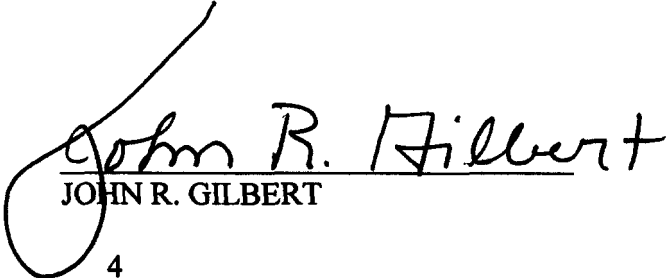
1177 West Loop South, Ste. 700

Houston, Texas 77027

G.P. Hardy, III

1177 West Loop South, Ste. 700

Houston, Texas 77027


JOHN R. GILBERT

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

C. SCOTT EVANS	§	
	§	
VS.	§	CIVIL ACTION _____
	§	
ELIZABETH WHITLEY AND	§	
MID-ATLANTIC SOLUTIONS, INC.	§	
	§	
	§	

INDEX OF MATTERS BEING FILED

Exhibit #1:	All executed process
Exhibit #2:	All Pleadings asserting causes of action
Exhibit #3;	The docket sheet
Exhibit #4:	Listing of all counsel of record, including addresses, telephone numbers and parties represented
Exhibit #5:	Notification to State District Court regarding Notice of Removal
Exhibit #6:	Written Notification to Plaintiff of filing of Notice of Removal



1

Citation

04-E-0599-C

CLERK OF THE COURT

Becky Denn
1700 Seventh St., Room 307
Bay City, TX. 77414-5092

ATTORNEY FOR PLAINTIFF

Christopher W. Byrd
1177 West Loop South
Houston, Texas 77027

THE STATE OF TEXAS**NOTICE TO THE DEFENDANT:**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

To: Mid-Atlantic Solutions, Inc., (hereinafter referred to as "MAS")
by serving the Secretary of State of Texas
650 Front Street
Lovington, VA 22949

Defendant, Greeting:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition on or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable District Court of Matagorda County, Texas at the Court House of said County in Bay City, Texas.

Said Petition was filed on the 1st day of November, 2004 in this case, numbered 04-E-0599-C on the docket of said court, and styled,

C. SCOTT EVANS

VS.

ELIZABETH WHITLEY AND MID-ATLANTIC SOLUTION, INC.

The nature of Plaintiff's demand is fully shown by a true and correct copy of Plaintiff's Original Petition accompanying this citation and made a part hereof. The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at office, on November 1, 2004.

BECKY DENN, DISTRICT CLERK
MATAGORDA COUNTY, TEXAS

By

Mary Garcia

Deputy

00100933-2



RECEIVED
SECRETARY OF STATE
NOV - 8 2004
2:30
CITATIONS UNIT



RETURN

Came to hand on the ____ day of _____, 20__ at ____ o'clock ,
M.
Executed at _____ within the County of
at ____ o'clock __, M. on the ____ day of _____, 20 __, by delivering to the within named
_____ each, in person, a true copy of this citation together with
the accompanying copy of the petition, having first attached such copy of such petition to such copy of
citation and endorsed on such copy of citation the date of delivery.

Total fee for serving this citation

By _____ Deputy

VERIFICATION OF RETURN
(for use by private process server)

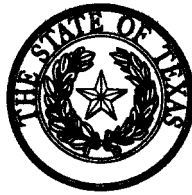
THE STATE OF TEXAS
COUNTY OF _____

BEFORE ME, the undersigned Notary Public, on this day personally appeared

__ who, being by me duly sworn on oath deposed and said that he/she is competent to make this oath, is a disinterested person not less than eighteen years of age who has been authorized to serve citation in this cause by written order of the Court, has read the above return, and every statement contained in the return is within affiant's personal knowledge and is true and correct.

SUBSCRIBED AND SWORN TO BEFORE ME on the _____ day of _____, 20__,
to certify which witness my hand and official seal.

Notary Public in and for the State
Of Texas
My commission expires:



The State of Texas

Secretary of State

2005-100933-2

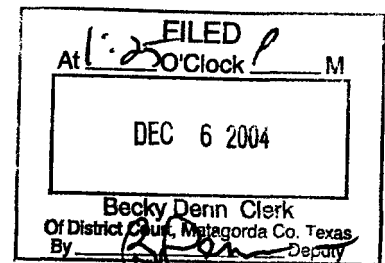
I, the undersigned, as Secretary of State of Texas DO HEREBY CERTIFY that according to the records of this office, a copy of the Citation and Plaintiff's Original Petition in the cause styled:

C Scott Evans VS Elizabeth Whitley and Mid Atlantic Solution Inc
130th Judicial District Court Of Matagorda County, Texas
04E0599C

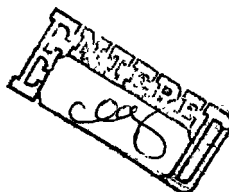
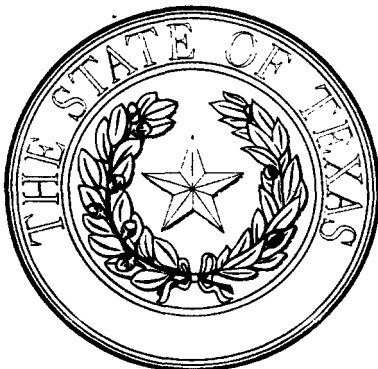
was received by this office on November 8, 2004, and that a copy was forwarded on November 12, 2004, by CERTIFIED MAIL, return receipt requested to:

Mid Atlantic Solutions Inc
650 Front Street
Lovington, VA 22949

The RETURN RECEIPT was received in this office dated November 17, 2004, bearing the Signature Of Addressee's Agent.



Date issued: November 23, 2004



Geoffrey S. Connor
Secretary of State

ST/sv

Citation
04-E-0599-C**CLERK OF THE COURT**

Becky Denn
1700 Seventh St., Room 807
Bay City, TX. 77414-5092

ATTORNEY FOR PLAINTIFF

Christopher W. Byrd
1177 West Loop South
Houston, Texas 77027

THE STATE OF TEXAS**NOTICE TO THE DEFENDANT:**

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

To: Elizabeth Whitley by serving the Secretary of State of Texas
650 Front Street
Lovington, VA 22949

Defendant, Greeting:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition on or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable District Court of Matagorda County, Texas at the Court House of said County in Bay City, Texas.

Said Petition was filed on the 1st day of November, 2004 in this case, numbered 04-E-0599-C on the docket of said court, and styled,

C. SCOTT EVANS

VS.

ELIZABETH WHITLEY AND MID-ATLANTIC SOLUTION, INC.

The nature of Plaintiff's demand is fully shown by a true and correct copy of Plaintiff's Original Petition accompanying this citation and made a part hereof. The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at office, on November 1, 2004.

BECKY DENN, DISTRICT CLERK
MATAGORDA COUNTY, TEXAS

By Mary Garcia
Deputy



RECEIVED
SECRETARY OF STATE

00100933 -1

NOV - 8 2004
2:30
CITATIONS UNIT

RETURN

Came to hand on the ____ day of _____, 20__, at __ o'clock __
M.
Executed at _____, within the County of
at ____ o'clock __, M. on the ____ day of _____, 20__, by delivering to the within named
_____, each, in person, a true copy of this citation together with
the accompanying copy of the petition, having first attached such copy of such petition to such copy of
citation and endorsed on such copy of citation the date of delivery.

Total fee for serving this citation

By _____ Deputy

VERIFICATION OF RETURN
(for use by private process server)

THE STATE OF TEXAS
COUNTY OF _____

BEFORE ME, the undersigned Notary Public, on this day personally appeared

**__ who, being by me duly sworn on oath deposed and said that he/she is competent to make this oath, is
a disinterested person not less than eighteen years of age who has been authorized to serve citation in
this cause by written order of the Court, has read the above return, and every statement contained in
the return is within affiant's personal knowledge and is true and correct.**

**SUBSCRIBED AND SWORN TO BEFORE ME on the _____ day of _____, 20__,
to certify which witness my hand and official seal.**

**Notary Public in and for the State
Of Texas
My commission expires:**



The State of Texas
Secretary of State

2005-100933-1

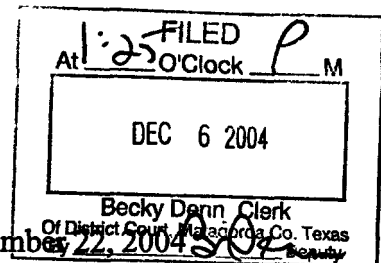
I, the undersigned, as Secretary of State of Texas DO HEREBY CERTIFY that according to the records of this office, a copy of the Citation and Plaintiff's Original Petition in the cause styled:

C Scott Evans VS Elizabeth Whitley and Mid Atlantic Solution Inc
130th Judicial District Court Of Matagorda County, Texas
04E0599C

was received by this office on November 8, 2004, and that a copy was forwarded on November 12, 2004, by CERTIFIED MAIL, return receipt requested to:

Elizabeth Whitley
650 Front Street
Lovington, VA 22949

The RETURN RECEIPT was received in this office dated November 17, 2004, bearing the Signature Of Addressee's Agent.



Date issued: November 22, 2004

Geoffrey S. Connor
Secretary of State



ST/lsv



2

CAUSE NO. 84-E-0599-C

C. SCOTT EVANS § **IN THE DISTRICT COURT OF**
VS. § **MATAGORDA CO., TEXAS**
ELIZABETH WHITLEY AND § **130th JUDICIAL DISTRICT**
MID-ATLANTIC SOLUTION, INC.

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

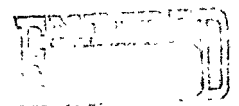
COMES NOW, SCOTT EVANS, Plaintiff, and files this his Original Petition, complaining of ELIZABETH WHITLEY and MID-ATLANTIC SOLUTIONS, INC., and for said petition would show the following:

I. DISCOVERY CONTROL PLAN

Discovery should be conducted under Level 3 of Tex. R. Civ. P. 190.

II. PARTIES

1. Plaintiff Scott Evans, (hereinafter referred to as “Evans”), is an individual residing in Bay City, Matagorda County, TX.
2. Elizabeth Whitley, (hereinafter referred to as “Whitley”), is an individual residing in the State of Virginia. She has committed a tort in whole or in part in the State of Texas and can be served by serving the Secretary of State of Texas. The address of Whitley is 650 Front Street, Lovington, VA 22949.
3. Mid-Atlantic Solutions, Inc., (hereinafter referred to as “MAS”), is a foreign corporation that does not maintain a registered agent for service of process in this State. MAS committed a tort in whole or in part in the State of Texas and can be



served by serving the Secretary of State of Texas. The address of MAS is 650 Front Street, Lovington, VA 22949.

III.
JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction because the amount in controversy exceeds the minimal jurisdictional limits of this Court.
5. Defendants are subject to personal jurisdiction in this Texas Court because each has committed a tort in whole or in part in the State of Texas and, therefore, are amenable to jurisdiction pursuant to Tex. Civ. Prac. & Rem. Code §17.041, et seq.
6. Venue is proper in this Court pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(4) because Evans has resided at all relevant times in this County and Defendants are non-residents without a principal office in this State.

IV.
FACTUAL BACKGROUND

7. Evans is the president of the Federation of Employers & Workers of America (hereinafter referred to as "FEWA"), a non-profit corporation, which is an association of employers and workers dedicated to improving business conditions and providing services in the area of seasonal labor retention and management. FEWA currently has over 480 employer members and 6500 worker members in industries ranging from landscaping to amusement parks. One of the many services that FEWA provides is assistance with federal guest worker programs. Among these programs is the Federal H-2B program under which the United States Department of Labor and the United States Citizenship and Immigration

Service permit domestic employers to hire seasonal, non-agricultural migrant labor.

8. Defendant Whitley is the president, and upon information and belief, sole owner of Defendant MAS. Defendants are in the business of providing assistance to qualify employers and workers for the H-2B program. Apparently, MAS views FEWA as competition in providing such assistance.
9. Prior to becoming President of FEWA, Evans was the president and owner of C. Scott, Inc., a for-profit corporation that also provided services with reference to the H-2B program. As of July 9, 2003, C. Scott, Inc., ceased to do business and Evans has devoted all of his time and energy since that date to the non-profit efforts of FEWA.
10. Under federal law, 66,000 visas are allocated to the H-2B program for entry of seasonal migrant workers for each federal fiscal year. Because of unparalleled demand for such workers, on March 10, 2004, the U. S. Citizenship and Immigration Services (formerly the INS) issued a press release that the cap was met. The press release stated, "Petitions for current H-2B workers do not count towards the congressionally mandated H-2B cap. Accordingly, USCIS will continue to process petitions filed to:

"Extend the stay of a current H-2B worker in the United States";

"Change the terms of employment for current H-2B workers";

"Allow current H-2B workers to change or add employers".

FEWA, in seeking to assist its members, sought legal counsel to advise FEWA on how to help members with completing and filing the necessary forms with the

USCIS for the above-referenced actions. The USCIS approved these applications to allow current H-2B workers to change or add employers.

11. For reasons not yet fully explained, the Director of the H2 program at the United States Consulate in Monterrey, Mexico, took exception to FEWA's members' actions and temporarily "suspended" FEWA's minor activities at the Consulate. Apparently viewing that dispute between FEWA and the Monterrey Consulate as a business opportunity, Defendants sent a letter dated July 21, 2004, to FEWA members and other H-2B employers in Texas and across the country that personally defamed Evans in various ways. In particular, Defendants falsely stated that Evans was engaging in the illegal sale of excess visas, that the Monterrey Consulate had suspended Evans personally for that reason, and that Evans was using FEWA as a cover for his defunct H-2B service company, C. Scott, Inc. On August 3, 2004, counsel for Evans forwarded a letter to Defendants demanding a retraction of these defamatory statements. As of the date of the filing of this Petition, Defendants have not retracted those statements or otherwise responded to such demand.

V.
LIBEL

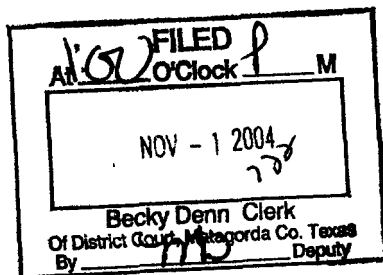
12. Evans incorporates herein the allegations set forth above.
13. Defendants have published statements that defame the reputation of Evans and diminish his respect and standing among members of the industries that utilize the H-2B Program and among the members of FEWA. Such statements were not good faith republication of any official statement by the United States Government and were intended to affirmatively mislead the public concerning

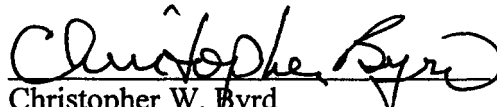
Evans' activities and the legitimacy of his involvement with FEWA. Moreover, in asserting that Evans has engaged in the illegal sale of visas, Defendants have falsely accused Evans of criminal conduct, which is libel per se.

14. As a result of Defendants' libelous statements, Evans has suffered damage to his reputation in an amount to be quantified at trial. In addition, because of the malicious or reckless nature of the statements of Defendants, Evans is entitled to punitive damages, including his attorney's fees.
15. Evans also seeks that upon final judgment that Defendants be ordered to publish a retraction of such libelous statements.

WHEREFORE, PREMISES CONSIDERED, Plaintiff C. Scott Evans prays that Defendants be cited to appear and answer herein, and that upon trial on the merits he receives a final judgment for his actual damages, punitive damages, costs of court, and all other relief to which he may show himself justly entitled.

Respectfully submitted,




Christopher W. Byrd
TSB#: 03557500
1177 West Loop South, Ste. 700
Houston, Texas 77027
PHO: 832-681-2315
FAX: 713-759-9650

OF COUNSEL:
G. P. Hardy, III
TSB#: 08992000
1177 West Loop South, Suite 700
Houston, TX 77027
PHO: 713-222-0381
FAX: 713-759-9650

ATTORNEYS FOR PLAINTIFF

3

CIVIL DOCKET

CASE NO. 04-E-0599-C

McGraw-Hill 800-451-9755

NUMBER OF CASE	NAMES OF PARTIES	ATTORNEYS	Kind of Action and Party Demanding Jury	DATE OF FILING		
04-E-0599-C	C. SCOTT EVANS ELIZABETH WHITLEY AND MID-ATLANTIC SOLUTION, INC.	G. P. HARDY	DAMAGES	Mo.	Day	Year
				11	01	04
				Jury Fee.		
				Paid by		
				Jury No.		
				PROCESS		
DATE OF ORDERS		Was Stenographer Used?	MINUTE BOOK			
Mo.	Day	Year	Vol.	Page		

The State of Texas
County of Matagorda

I, Becky Denn, Clerk of the District Court in and for Matagorda County, Texas, do hereby certify that the above and foregoing is a true and correct copy recorded in the Minutes of the District Court of Matagorda County, Texas.

GIVEN UNDER MY HAND AND SEAL of said Court, at the office in Bay City, Texas, on December 7, 2004.

Becky Denn, District Clerk
Matagorda County, Texas

By Mary Gaur





4

ATTORNEYS OF RECORD

For **Defendants**, Elizabeth Whitley and Mid-Atlantic Solution, Inc.:

Attorney: John R. Gilbert
SDOT No. 3754
Texas State Bar No. 07898500

Address: P. O. Box 1819
222 North Velasco
Angleton, Texas 77516-1819

Phone Numbers: (979) 849-5741
(979) 849-7729 (FAX)

Attorney: Lawrence P. Hampton
SDOT No. 8123
Texas State Bar No. 08875500

Address: P. O. Box 1819
222 North Velasco
Angleton, Texas 77516-1819

Phone Numbers: (979) 849-5741
(979) 849-7729 (FAX)

Attorney: William W. Ogden
SDOT No. 2072
Texas State Bar No. 15228500

Address: 2100 Pennzoil South Tower
711 Louisiana
Houston, Texas 77002

Phone Numbers: (713) 844-3000
(713) 844-3030 Fax

For **Plaintiff**, C. Scott Evans:

Attorney: Christopher W. Byrd
Texas State Bar No. 03557500



Address: 1177 West Loop South, Ste. 700
Houston, Texas 77027

Phone Numbers: (832) 681-2315
(713) 759-9650(FAX)

Attorney: G.P. Hardy, III
(Of Counsel) Texas State Bar No. 08992000

Address: 1177 West Loop South, Ste. 700
Houston, Texas 77027

Phone Numbers: (713) 222-0381
(713) 759-9650(FAX)



5

NO. 04-E-0599-C

C. SCOTT EVANS

VS.

ELIZABETH WHITLEY AND
MID-ATLANTIC SOLUTIONS, INC.

§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

MATAGORDA CO., TEXAS

130TH JUDICIAL DISTRICT

NOTICE TO STATE COURT OF FILING OF NOTICE OF REMOVAL

To: Becky Denn, District Clerk, Matagorda County, Texas:

Please take notice that Defendants, Mid-Atlantic Solutions, Inc. and Elizabeth Whitley, this date, have filed their Notice of Removal to the United States District Court for the Southern District of Texas, Galveston Division, a copy of which is attached hereto. Defendants hereby file a copy of the Notice with the Clerk of the District Court of Matagorda County, Texas, in accordance with 28 U.S.C. § 1446(d).

Dated this 8th day of December, 2004.

Respectfully submitted,

GILBERT & GILBERT

BY: John R. Gilbert

JOHN R. GILBERT

State Bar No. 07898500

SDOT No. 3754

P. O. Box 1819

222 North Velasco

Angleton, Texas 77516-1819

(979) 849-5741

(979) 849-7729 (FAX)

ATTORNEY-IN-CHARGE FOR DEFENDANTS,
MID-ATLANTIC SOLUTIONS, INC. and
ELIZABETH WHITLEY



OF COUNSEL:
GILBERT & GILBERT
Lawrence P. Hampton
State Bar No. 08875500
SDOT No.
222 North Velasco
P. O. Box 1819
Angleton, Texas 77516-1819
(979) 849-5741
(979) 849-7729 Fax

OGDEN, GIBSON, WHITE, BROOCKS,
& LONGORIA, LLP
William W. Ogden
SDOT No. 2072
State Bar No. 15228500
2100 Pennzoil South Tower
711 Louisiana
Houston, Texas 77002
(713) 844-3000
(713) 844-3030 Fax

CERTIFICATE OF SERVICE

I hereby certify that in accordance with the Texas Rules of Civil Procedure, a true copy of NOTICE TO STATE COURT OF FILING OF NOTICE OF REMOVAL has been served on the below listed counsel of record on this the 8th day of December, 2004, to:

Christopher W. Byrd
1177 West Loop South, Ste. 700
Houston, Texas 77027

G.P. Hardy, III
1177 West Loop South, Ste. 700
Houston, Texas 77027


JOHN R. GILBERT



6

GILBERT & GILBERT
ATTORNEYS AT LAW

222 NORTH VELASCO
P. O. BOX 1819
ANGLETON, TEXAS 77516-1819
(979) 849-5741 Telephone
(979) 849-7729 Facsimile
jgilbert@jrgpc.com

RALPH W. GILBERT
(1919 - 2004)
JOHN R. GILBERT, P.C.

ERIC T. FUREY
JUSTIN R. GILBERT
WALTER J. ROMANO

Of Counsel
ERNEST J. BLANSFIELD
KEVIN P. GALLAGHER
GWYNN H. GORSUCH
LAWRENCE P. HAMPTON
CHRISTINE M. RODRIGUEZ

December 8, 2004

Christopher W. Byrd
1177 West Loop South, Ste. 700
Houston, Texas 77027

CMRRR#7003 2260 0007 0018 0637

G. P. Hardy, III
1177 West Loop South, Ste 700
Houston, Texas 77027

CMRRR#7003 2260 0007 0018 0323

RE: Cause No. 04-E-0599-C; C. Scott Evans v. Elizabeth Whitley and Mid-Atlantic Solutions, Inc.; In the 130th Judicial District Court of Matagorda County, Texas.

Dear Chris and Geep:

Enclosed please find copies of the following documents::

1. **Defendants' Notice of Removal and related exhibits as filed on Wednesday, December 8, 2004 with the United States District Court for the Southern District of Texas, Galveston Division.**

If you should have any questions, please do not hesitate to call.

Sincerely yours,

John R. Gilbert

John R. Gilbert

JRG/mw
byrd & hardy ltr 12-8-04.wpd
Enclosures



CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleading and other documents required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

United States Court
 DEC 08 2004
 Michael N. Milby, Clerk of Court

I. (a) PLAINTIFFS

C. Scott Evans

(b) County of Residence of First Listed Plaintiff Matagorda
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

Elizabeth Whitley and
 Mid-Atlantic Solutions, Inc.

County of Residence of First Listed State of Virginia
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
 LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Christopher W. Byrd / G. P. Hardy III
 1177 West Loop South, Ste. 700
 Houston, Texas 77027

Attorneys (If Known)

John R. Gilbert 979-849-5741
 P. O. Box 1819
 Angleton, Texas 77516-1819

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ 1 ☐ 1 DEF Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4 DEF
 Citizen of Another State ☐ 2 ☒ 2 DEF Incorporated and Principal Place of Business In Another State ☐ 5 ☒ 5 DEF
 Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 160 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input checked="" type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. § 1446 (b) - Diversity action arising out of alleged libel lawsuit.

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ excess of \$75,000. CHECK YES only if demanded in complaint: JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE

DOCKET NUMBER

DATE 12/8/04

SIGNATURE OF ATTORNEY OF RECORD

John R. Gilbert

FOR OFFICE USE ONLY